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10/045,503

11/07/2001

John Starr

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EXAMINER

WU, RUTAO

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/045,503	<b>Applicant(s)</b> STARR ET AL.	
	<b>Examiner</b> ROB WU	<b>Art Unit</b> 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 16-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 16-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 24, 2008 has been entered.

### ***Response to Arguments***

2. Applicant's arguments filed January 25 2008 have been fully considered but they are not persuasive.

The applicant alleges that French in view of Li does not teach or disclose "iteratively reducing or increasing the number of suppliers in the family." The Examiner respectfully disagrees. Li et al disclose that after the close of the auction the auction management software allows the user to implement different private buyer constraints to create a schedule of optimal awards. [0064], [0065] So when the bidding ends the first optimal solution is created, and if the user selects to implement private buyer constraints then a second optimal solution is created having reduced or increased number of suppliers.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3628

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-14 and 16-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pub No. 2001/0037281 to French et al in view of U.S. Pub No. 2003/0004850 to Li et al.

**Referring to claim 1:**

A computer-implemented method for selecting an optimal balance between direct cost and a number of suppliers comprising:

- soliciting bids from a plurality of suppliers for a plurality of lots;

French states in his application that consumer submits a request for a price quote on a certain product to an electronic staging area [0006].

- receiving at least one bid from a supplier for each lot;

French states in his application that the request for quote is forwarded to at least two carriers who compete with one another during a specified auction period to provide the consumer with the best price quote for the product [0006].

- storing the bids from each supplier in a database; and

French states in his application an electronic medium such as a computer, along with the available databases that will maintain the RFQ system and method [0023].

- Upon completion of bidding for the plurality of lots;
  - determining a first optimal solution that includes an initial family of lot-supplier assignments;

- iteratively reducing or increasing the number of the suppliers in the family;  
and
- generating at least a second optimal solution having the reduced or increased number of suppliers

French states in his application multiple phases to the auction. There could be N initial bids in phase I, at the end of phase I, the buyer would choose a number of finalists to go on to phase II to continue the bidding to further narrow down the number of carriers [0040]. Therefore, the end of phase I would be the first optimal solution, and the end of phase II would be the second optimal solution having a different number of bidders.

French however does not disclose that the two solutions are generated at the close of the auction. Li et al disclose that after the close of the auction the auction management software allows the user to implement different private buyer constraints to create a schedule of optimal awards. [0064], [0065] So when the bidding ends the first optimal solution is created, and if the user selects to implement private buyer constraints then a second optimal solution is created having reduced or increased number of suppliers. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify French's invention to allow multiple choices for the consumer at the end of the auction to ensure that the consumers can pick the best suppliers as needed based on the conditions that are most important to the consumers.

- Wherein if the initial family of lot-supplier assignments has the lowest cost, the number of suppliers in the family is iteratively decreased, and wherein if the initial family of lot-supplier assignments has the highest cost, the number of suppliers in the family is iteratively increased.

French combined with Li et al disclose decreasing the number of suppliers to determined the lowest cost. French combined with Li et al does not expressly disclose that if the initial family of lot-supplier assignments has the highest cost, the number of suppliers in the family is increased. However, it would have been obvious at the time of the invention of French or Li et al that if the bids received are high, then the auction could be opened to include more suppliers as it is well known in that arts to obtain the lowest price bid possible to reduce of the cost of purchasing the supplies.

**Referring to claim 2:**

The method of claim 1 wherein the generating comprises:

Inputting the bids into an optimization routing, including:

- selecting the number of suppliers for each optimal solution,

French states in his application that for each phase of the auction, the number of approved carriers are chosen by the buyer [0040].

- determining lowest bids received from the number of suppliers for the lots for each optimal solution,

French states in his application that the customer would select the carriers with the most competitive quotes at the end of each phase, and that either the lowest quote or the highest quote as the most competitive quote, depending on the good or service [0047].

- calculating a direct cost from the lowest bids received from the number of suppliers for each optimal solution, and

French states in his application that the customer would select the lowest quote as the most competitive quote [0047]. In this case, the optimal solution includes one carrier, and the direct cost would be the lowest quote. In a case when the optimal solution includes multiple carriers, then the direct cost would be the total of the lowest quotes.

- providing each optimal solution to a buyer.

French states in his application that the RFQ system is configured so that quotes could be viewed at the customer interface [0043].

**Referring to claim 3:**

The method of claim 1 wherein the generating comprises:

- choosing a minimum cost; and

French states in his application that the customer could indicate a “ceiling quote”, or a maximum price above which the customer would not want to receive a quote on the desired product. Also, the customer could indicate a “floor quote”, or a price below which the customer would not want to receive a quote on a certain product [0034].

- determining the optimal solution with a direct cost being at least the minimum cost.

French states in his application the broker interface would pre-screen all quotes to ensure that each was at or below the specified ceiling quote, or alternatively, was at or above the specified floor quote [0034]. Therefore, all the competitive quotes would be at least the minimum cost in the case of a floor quote.

**Referring to claim 4:**

The method of claim 1 wherein the storing comprises:

- removing the bids from at least one undesired supplier.

French states in his application that after phase I, the buyer would select a number of finalists to go on to phase II [0040]. Thus removing the bids from at least one undesired supplier.

**Referring to claim 5:**

The method of claim 4 wherein the generating comprises:

- providing the optimal solution with lowest bids from the suppliers other than the at least one undesired supplier.

French states in his application a phase II of the auction, which include only the chosen suppliers [0040].

**Referring to claim 6:**

The method of claim 1 wherein the storing comprises:

- choosing the bids from at least one preferred supplier.

French states in his application at the end of phase II, the buyer would select the carrier with either the lowest quote or the highest quote as the most competitive quote, depending on the good or service [0047].

**Referring to claim 7:**

The method of claim 6 wherein the generating comprises:

- providing the optimal solution with lowest bids from the at least one preferred supplier for the lots on which the at least one preferred supplier bid lower than



other suppliers and lowest bids from the other suppliers for the lots on which the at least one preferred supplier did at least one of not bid and not bid the lowest bid.

The examiner understood the claim as: providing the optimal solution made up of the bids from the preferred supplier for the lots which the preferred supplier bid the lowest and the bids from other suppliers for the lots on which the preferred supplier either did not bid or not have the lowest bid.

French states in his application that at the end of phase I, the buyer will chose a number of finalist carriers who had submitted the best initial quotes to go on to phase II [0040].

The carrier with the lowest bid will be included in the finalist carriers. If the carrier did not bid or was not among the lowest bidders, then he would not be included in the finalist carriers.

**Referring to claim 8:**

The method of claim 1 wherein the generating comprises:

- ranking the bids in accordance with cost.

French states in his application that an optional feature of his invention would allow the customer to sort the quotes according to one or more parameters, such as for example, highest to lowest quote [0046].

**Referring to claim 9:**

The method of claim 1 wherein the soliciting comprises:

- identifying at least one of goods and services to be purchased.

Art Unit: 3628

French states in his application, the customer can consummate the transaction by submitting an actual purchase order for the product to the “winning” carrier [0047].

**Referring to claim 10:**

The method of claim 1 further comprising:

- display at least one of the first and second optimal solutions.

French states in his application that after the auction, the broker would post all the quotes submitted, which preferably would include the best or most competitive quote in the staging area [0047].

**Referring to claim 11:**

The method of claim 1 wherein the generating comprises:

- assigning an integer value to each lowest bid in each lot.

French states in his application that optional statistics could be posted by the broker with the winning quote [0047].

**Referring to claim 12:**

The method of claim 1 wherein the receiving comprises:

Submitting bids from

- a first supplier that bid on at least one of a first lot, a second lot, a third lot and a fourth lot,
- a second supplier that bid on at least one of the first lot, the second lot, the third and the fourth lot,
- a third supplier that bid on at least one of the first lot, the second lot, the third lot, and the fourth lot, and

- a fourth supplier that bid on at least one of the first lot, the second lot, the third lot, and the fourth lot.

French states in his application the request for quote is forwarded to at least two carriers who compete with one another during a specified auction period to provide the consumer with the best price quote for the product [0006]. French further states, after the first quote was posted, a second carrier could choose to submit a second quote [0043].

**Referring to claim 13:**

The method of claim 12 wherein the generating comprises:

Calculating the first and second optimal solution, including

- the first optimal solution, having a first cost, for three suppliers, the first optimal solution listing the first supplier as a provider for at least one of the first, second, third and fourth lots and having a first cost, the third supplier as the provider for at least one of the first, second, third, and fourth lots, and the fourth supplier as the provider for at least one of the first, second, third and fourth lots; and

French states in his application in phase I of the RFQ system that each carrier would submit its initial quote without knowing another carrier's quote [0037], and also may be allowed to update its quote after viewing the quotes submitted by other carriers[0039].

- the second optimal solution, having a second cost, for two suppliers, the second optimal solution listing the third supplier as the provider for at least one of the first, second, third, and fourth lots, and the fourth supplier as the provider for at least one of the first, second, third and fourth lots.

Art Unit: 3628

French states in his application that finalists from phase I are chosen to participate in phase II [0040]. The first carrier would transmit a first or open bid. Preferably more competitive than the initial quote submitted in phase I [0042]. After the first quote was posted, a second carrier could choose to submit a second quote [0043].

**Referring to claim 14:**

The method of claim 1 further comprising:

- selecting one of the optimal solutions.

French states in his application the customer can select one carrier in phase I and go with that carrier's quote on the product, obviating the need to proceed to Phase II altogether[0040]. Or after the completion of phase II, consummate the transaction by submitting an actual purchase order for the product to the "winning" carrier [0047]

**Referring to claim 16:**

A system for selecting an optimal balance between direct cost and a number of suppliers comprising:

- a database for receiving and storing bid information from a plurality of suppliers for a plurality of lots; and

French states in his application an electronic medium such as a computer, along with the available databases that will maintain the RFQ system and method [0023].

- software for, upon completion of bidding from the plurality of lots;
  - generating a first optimal solution that includes an initial family of lot-supplier assignments;

- iteratively reducing or increasing the number of the suppliers in the family;  
and
  - generating at least a second optimal solution having the reduced or  
increased number of suppliers;
- wherein if the initial family of lot supplier assignments has the lowest cost, the  
number of suppliers in the family is iteratively decreased, and wherein if the initial  
family of lot-supplier assignments has the highest cost, the number of suppliers  
in the family is iteratively increase.

French states in his application an electronic medium such as a computer, along with the available databases, hardware and software that will program and maintain the RFQ system and method [0023].

French however does not disclose that the two solutions are generated at the close of the auction. Li et al disclose that after the close of the auction the auction management software allows the user to implement different private buyer constraints to create a schedule of optimal awards. [0064], [0065] So when the bidding ends the first optimal solution is created, and if the user selects to implement private buyer constraints then a second optimal solution is created having reduced or increased number of suppliers. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify French's invention to allow multiple choices for the consumer at the end of the auction to ensure that the consumers can pick the best suppliers as needed based on the conditions that are most important to the consumers.

French combined with Li et al disclose decreasing the number of suppliers to determined the lowest cost. French combined with Li et al does not expressly disclose that if the initial family of lot-supplier assignments has the highest cost, the number of suppliers in the family is increased. However, it would have been obvious at the time of the invention of French or Li et al that if the bids received are high, then the auction could be opened to include more suppliers as it is well known in that arts to obtain the lowest price bid possible to reduce of the cost of purchasing the supplies.

**Referring to claim 17:**

The system of claim 16 wherein the the bid information comprises at least one bid from a supplier for each lot.

French states in his application the request for quote is forwarded to at least two carriers who compete with one another during a specified auction period to provide the consumer with the best price quote for the product [0006]. French further states, after the first quote was posted, a second carrier could choose to submit a second quote [0043].

**Referring to claim 18:**

The system of claim 16 wherein the at least one of the first and second optimal solutions comprises a chosen supplier for each lot.

French states in his application that the customer would effectively choose the carriers to participate in the RFQ process and subsequent auction [0033]. Therefore, the optimal solutions include a chosen supplier.

**Referring to claim 19:**

A computer program product for selecting an optimal balance between direct cost and a number of suppliers, the computer program product being embodied in a computer readable medium and comprising computer instructions for:

- receiving and storing bid information from a plurality of suppliers for a plurality of lots;

French states in his application an electronic medium such as a computer, along with the available databases that will maintain the RFQ system and method [0023].

- upon the completion of bidding for the plurality of lots;
  - determining a first optimal solution that includes an initial family of lot-supplier assignments;
  - iteratively reducing or increasing the number of suppliers in the family; and
  - generating at least a second optimal solution having the reduced or increased number of suppliers

French states in his application an electronic medium such as a computer, along with the available databases, hardware and software that will program and maintain the RFQ system and method [0023].

French however does not disclose that the two solutions are generated at the close of the auction. Li et al disclose that after the close of the auction the auction management software allows the user to implement different private buyer constraints to create a schedule of optimal awards. [0064], [0065] So when the bidding ends the first optimal solution is created, and if the user selects to implement private buyer constraints then a

Art Unit: 3628

second optimal solution is created having reduced or increased number of suppliers.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify French's invention to allow multiple choices for the consumer at the end of the auction to ensure that the consumers can pick the best suppliers as needed based on the conditions that are most important to the consumers.

- transmitting the optimal solution to a buyer;
- wherein if the initial family of lot-supplier assignments has the lowest cost, the number of suppliers in the family is iteratively decreased, and wherein if the initial family of lot-supplier assignments has the highest cost, the number of suppliers in the family is iteratively increased.

French states in his application that the customer interface shall be an electronic medium, and more preferably shall include a website on the internet accessible by a computer [0022].

French combined with Li et al disclose decreasing the number of suppliers to determined the lowest cost. French combined with Li et al does not expressly disclose that if the initial family of lot-supplier assignments has the highest cost, the number of suppliers in the family is increased. However, it would have been obvious at the time of the invention of French or Li et al that if the bids received are high, then the auction could be opened to include more suppliers as it is well known in that arts to obtain the lowest price bid possible to reduce of the cost of purchasing the supplies.

**Referring to claim 20:**



The computer program product of claim 19 wherein the bid information comprises at least one bid from a supplier for each lot.

French states in his application the request for quote is forwarded to at least two carriers who compete with one another during a specified auction period to provide the consumer with the best price quote for the product [0006]. French further states, after the first quote was posted, a second carrier could choose to submit a second quote [0043].

**Referring to claim 21:**

The computer program product of claim 19 wherein at least one of the first and second optimal solutions comprise a chosen supplier for each lot.

French states in his application that the customer would effectively choose the carriers to participate in the RFQ process and subsequent auction [0033]. Therefore, the optimal solutions include a chosen supplier.

**Referring to claim 22:**

The computer program product of claim 19 wherein the bid information comprises:

- at least one bid on a first, second, third, and fourth lot from a first supplier; at least one bid on the first, second, third, and fourth lots from a second supplier, at least one bid on the first, second, third, and fourth lots from a third supplier, and at least one bid on the first, second, third, and fourth lots from a fourth supplier.

French states in his application the request for quote is forwarded to at least two carriers who compete with one another during a specified auction period to provide the

consumer with the best price quote for the product [0006]. French further states, after the first quote was posted, a second carrier could choose to submit a second quote [0043].

**Referring to claim 23:**

The computer program product of claim 22 wherein the first and second optimal solution comprises:

- the first optimal solution, having a first cost, for three suppliers, the first optimal solution listing the first supplier as a provider for at least one of the first, second, third and fourth lots and having a first cost, the third supplier as the provider for at least one of the first, second, third, and fourth lots, and the fourth supplier as the provider for at least one of the first, second, third and fourth lots; and

French states in his application in phase I of the RFQ system that each carrier would submit its initial quote without knowing another carrier's quote [0037], and also may be allowed to update its quote after viewing the quotes submitted by other carriers[0039].

- the second optimal solution, having a second cost, for two suppliers, the second optimal solution listing the third supplier as the provider for at least one of the first, second, third, and fourth lots, and the fourth supplier as the provider for at least one of the first, second, third and fourth lots.

French states in his application that finalists from phase I are chosen to participate in phase II [0040]. The first carrier would transmit a first or open bid. Preferably more competitive than the initial quote submitted in phase I [0042]. After the first quote was posted, a second carrier could choose to submit a second quote [0043].

### ***Conclusion***

5. Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that the applicant, in preparing the responses, fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

6. This is a continuation of applicant's earlier Application No. 10/045,503. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 3628

the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROB WU whose telephone number is (571)272-3136.

The examiner can normally be reached on Mon-Fri 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on (571)272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. W./  
Examiner, Art Unit 3628

/JOHN W HAYES/  
Supervisory Patent Examiner, Art Unit 3628